

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****CHAMBER SUMMONS NO.764 OF 2016****IN****SUIT NO.2249 OF 2012****WITH****NOTICE OF MOTION NO.2344 OF 2012****IN****SUIT NO.2249 OF 2012****WITH****NOTICE OF MOTION NO.88 OF 2013****IN****SUIT NO.2249 OF 2012****WITH****NOTICE OF MOTION NO.332 OF 2013****IN****SUIT NO.2249 OF 2012****WITH****NOTICE OF MOTION NO.809 OF 2015****IN****SUIT NO.2249 OF 2012**

Umesh H. Gandhi

...Plaintiff

Versus

Harjitsingh D. Sohal And 9 Ors.

...Defendants

.....

Mr. Deepak Chitnis, i/b. Deepak Chitnis-Chiparikar & Co., for the Applicant/Plaintiff.

Ms. Preeti Damre, i/b. Ms. Sophia Pinto, for Respondent Nos. 5 to 8.

.....

CORAM**: S.C.GUPTE, J.****DATED****: 19 SEPTEMBER 2018****P.C.:**

. Chamber Summons No.764 of 2016 is for amendment of the
plaint by placing on record events subsequent to the filing of the suit,

which bear on the merits of the suit. The present suit is for specific performance of an agreement executed between the parties in the form of memorandum of understanding. It is the case of the Defendants that the MOU has been terminated and that the suit has been filed beyond the period of limitation. A preliminary issue under Section 9A was framed in respect of the Defendants' plea of limitation. Pending hearing of the preliminary issue, in view of the Amending Act (Maharashtra Ordinance No. XVIII of 2018), which deletes Section 9A as applicable in the State of Maharashtra from the statute book, the hearing of the preliminary issue may not be proceeded with. In the meantime, pending hearing of the motion taken out by the Plaintiff in the suit and pending hearing of the preliminary issue, the Defendants have filed a suit in the City Civil Court at Bombay at Dindoshi, Mumbai, being Suit No.2129 of 2013. It is the Plaintiff's case that the signing of the MOU as also its validity and subsistence have been affirmed by the Defendants in this suit. The present chamber summons is for placing these subsequent events on record. Since these matters have a bearing on the merits of the present case, the amendment can be allowed, subject to keeping all rights and contentions of parties on merits open. In the premises the chamber summons is allowed in terms of prayer clause (a). Amendment to be carried out within two weeks. All rights and contentions of the parties on merits of the controversy inter alia forming part of the amended plaint are kept open. The Defendants will be entitled to file additional written statement dealing with the amended suit. Such additional written statement may be filed within a period of four weeks from today. Notices of motion are stood over to 16 October 2018.

(S.C.GUPTE, J.)